

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2019-077-00371R

Parcel No. 312/00302-037-005

**Peter Sand,**

Appellant,

vs.

**Polk County Board of Review,**

Appellee.

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**Introduction**

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on February 18, 2020. Peter Sand was self-represented. Assistant Polk County Attorney David Hibbard represented the Board of Review.

Peter and Diane Sand own a residential property located at 4509 76th Street, Urbandale, Iowa. Its January 1, 2019, assessment was set at \$252,900, allocated as \$41,700 in land value and \$211,200 in building value. (Ex. B).

Peter Sand petitioned the Board of Review contending the assessment was not equitable as compared with assessments of other like property and also claiming his property was assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1 & 2) (2019). The Board of Review denied the petition (Ex. B).

Sand then appealed to PAAB re-asserting his claim.

**General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act

apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

## **Findings of Fact**

The subject property is a two-story home built in 1975. It has 2254 square feet of gross living area, 360 square feet of average-plus quality basement finish, a deck, and a two-car attached garage. The improvements are listed in above-normal condition with a 4+10 (average quality) grade. The site is 0.220 acres. (Ex. A).

Sand's assessment increased 13.6% from the prior assessment year. (Exs. A & C). He does not believe this increase is based on market value and is greater than his property's actual market value. He also reported the year-over-year increase in his property's assessment since 1999. (Ex. C). Sand asserted Iowa Code section 441.21(4) limits the increase of an assessment to 3-4%. Although he acknowledged this section may not pertain to individual assessments but rather state-wide valuations, he believes it is in the spirit of the law to limit the individual assessment increase to that percentage.<sup>1</sup>

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<sup>1</sup> Iowa Code section 441.21(4) speaks to limitations on aggregate assessment growth by class of property, not individual properties. See Lincoln Institute of Land Policy, Policy Focus Report, Property Tax Assessment Limits: Lessons from Thirty Years of Experience, pp. 11, 13-14 (2008) available at [https://www.lincolninst.edu/sites/default/files/pubfiles/property-tax-assessment-limits-full\\_0.pdf](https://www.lincolninst.edu/sites/default/files/pubfiles/property-tax-assessment-limits-full_0.pdf).

The subject property is located just north of Urbandale High School. Sand testified the homes on his street are very similar to his property. He explained none of the twenty-five properties on his street have sold for more than his assessment but acknowledged no sales have occurred since 2016. (Exs. C & 2). Nevertheless, he believes the older sales on his street are the best comparables for his property. (Appeal).

Sand explained a “horse-shoe shaped” street with cul de sacs is located to the west of his street but the homes located there are more secluded, larger, and have higher sale prices. (Appeal). In his opinion those superior homes and their higher sale prices are skewing the neighborhood average.

Sand believes the Assessor’s Office relied on only one sale, 7708 Winston Drive, Urbandale, to value his home. A summary of the subject and this sale is made in the following table. (Exs. A & 3).

Comparable	Grade	Gross Living Area (SF)	Basement Finish	2019 Assessed Value	Sale Price
Subject	4+10	2254	360 AP	\$252,900	NA
1 – 7708 Winston Drive	4+05	2008	450 AP	\$248,700	\$252,900

This property is located approximately one block from Lakeview Park, which Sand believes has superior market appeal to his home. Beyond the difference in location, Sand could not explain why “it sold so high.” We note both properties are located in the same map area, “Urbandale Neighborhood 5 Pocket C.” (Exs. A & 3). Both properties were built in 1975, are two-story design, and have a two-car attached garages. The subject has a higher quality grade and more gross living area, both of which would result in a higher assessed value compared to the Winston Drive property.

The Board of Review did not offer any witnesses.

## Analysis & Conclusions of Law

Sand contends the subject property is inequitably assessed and over assessed as provided under Iowa Code section 441.37(1)(a)(1 & 2). Sand bears the burden of proof. § 441.21(3).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Here, we find Sand failed to demonstrate the Assessor applied an assessing method in a non-uniform manner.

Alternatively, to prove inequity, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019) of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.* Sand submitted several properties on his street for consideration but none sold during 2018, and we cannot develop the *Maxwell* ratio analysis for these properties. Because the *Maxwell* test also requires a showing of the subject property's actual market value as compared to its current assessment and an over assessment claim requires the same showing, we turn to that claim.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion.

Sand believes his assessment should not have increased 13.6% since the last assessment. He believes the evidence he has submitted, older sales of homes on his street as well as the percentage increase in his assessment, shifts the burden to the Board of Review. However, to shift the burden, the evidence must comport with the statutory scheme. Iowa Code § 441.21(3); *Soifer*, 759 N.W.2d at 782. Comparable sales are taken into consideration when establishing market values. The sale price of the subject property as well as sale prices of comparable properties is to be considered when establishing market values. § 441.21(1)(b). Sand's focus for sales was limited to those properties located on his street, with the most recent sales occurring in 2016. We do not find these unadjusted, dated sales persuasive for establishing a 2019 market value of the subject property, nor do they shift the burden of proof. Sale prices must be adjusted "to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments." *Soifer*, 759 N.W.2d at 783 (other citations omitted). Sand offered no other evidence of the subject's actual market value such as an appraisal or a comparative market analysis (CMA).

Sand believes the Assessor's Office is relying only on a single 2017 sale located on Winston Drive. This sale is the most recent sale in the record and has a sale price equal to the subject's assessed value. Although the sale was not adjusted for differences between it and the subject property, we note it has less gross living area than the subject property and has a lower grade. These differences would reasonably require upward adjustments to its sale price. Therefore, it tends to support the subject's assessed value.

Viewing the record as a whole, we find Sand failed to support his claims.

## **Order**

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order<sup>2</sup> and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2019).



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Dennis Loll, Board Member



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Karen Oberman, Board Member



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Elizabeth Goodman, Board Member

Copies to:

Peter Sand by eFile

Polk County Board of Review by eFile

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<sup>2</sup> Due to the State Public Health Disaster Emergency caused by the coronavirus (COVID-19), the deadline for filing a judicial review action may be tolled pursuant to orders from the Iowa Supreme Court. Please visit the Iowa Judicial Branch website at <https://www.iowacourts.gov/iowa-courts/supreme-court/orders/> for the most recent Iowa Supreme Court orders.